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SUBCOMMITTEE ON TRADE

OF THE

COMMITTEE ON WAYS AND MEANS
U.S. HOUSE OF REPRESENTATIVES

WRITTEN COMMENTS

ON

CERTAIN TARIFF AND TRADE BILLS

VOLUME II

NOVEMBER 10, 1989

Printed for the use of the Committee on Ways and Means by its staff

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FOR IMMEDIATE RELEASE
TUESDAY, SEPTEMBER 19, 1989

SUBCOMMITTEE ON TRADE #17.
COMMITTEE ON WAYS AND MEANS
U.S. HOUSE OF REPRESENTATIVES
1102 LONGWORTH HOUSE OFFICE BLDG.
WASHINGTON, D.C. 20515
TELEPHONE: (202) 225-3943

THE HONORABLE SAM M. GIBBONS (D., FLA.), CHAIRMAN, SUBCOMMITTEE ON TRADE, COMMITTEE ON WAYS AND MEANS, U.S. HOUSE OF REPRESENTATIVES, ANNOUNCES REQUEST FOR WRITTEN COMMENTS ON CERTAIN TARIFF AND TRADE BILLS

The Honorable Sam M. Gibbons (D., Fla.), Chairman of the Subcommittee on Trade, Committee on Ways and Means, U.S. House of Representatives, today announced that the Subcommittee on Trade is requesting written testimony for the record from all interested parties on the miscellaneous tariff and trade bills listed below.

A determination regarding further scheduling of public hearings or other Subcommittee action on any of these bills will not be made until after the close of this public comment period.

The tariff and trade bills on which written testimony will be received are:

Duty Suspension Bills

H.R. 3010 (Mr. Wheat and Mr. Coleman of Missouri): To temporarily suspend the duty on O,O-Dimethyl-S-[(4-oxo-1,2,3-benzotriazin-3(4H)-yl)methyl]phosphorodithioate.

H.R. 3011 (Mr. Wheat and Mr. Coleman of Missouri): To suspend temporarily the duty on 4-Fluoro-3-phenoxy benzaldehyde.

H.R. 3018 (Mr. Pease): To suspend temporarily the duty on metallurgical fluorspar.

H.R. 3060 (Ms. Schneider): To suspend temporarily the duty on 2,3,6-Trimethylphenol (TMP).

H.R. 3130 (Mr. Valentine and Mr. Price): To suspend temporarily the duty on ranitidine hydrochloride.

H.R. 3197 (Ms. Slaughter of New York): To suspend temporarily the duty on certain frozen vegetables.

H.R. 3231 (Mr. Dwyer of New Jersey): To provide for the temporary suspension of duty on certain types of veneer.

H.R. 3232 (Mr. Frenzel): To suspend temporarily the duty on p-Hydroxybenzaldehyde.

Extension of Existing Suspension Bills

H.R. 2701 (Mr. Buechner): To extend the existing suspension of duty on triphenyl phosphate.

H.R. 2721 (Mr. Guarini): To extend the existing suspension of duty on graphite.

Duty Reduction Bills

H.R. 2910 (Mr. Flippo): To reduce temporarily the duty on certain frozen carrots.

H.R. 3019 (Mr. Smith of New Jersey): To reduce temporarily the duty on certain ceramic statues, statuettes, and handmade flowers.

VI

Classification Bills

H.R. 3111 (Mr. Flippo): To amend the Tariff Schedule of the United States to reclassify apparel consisting of fabric composed of man-made fiber and cotton blends.

Customs and Other Nontariff Matters Bills

H.R. 2864 (Mr. Matsui): Regarding the reliquidation of a certain extracorporeal shock wave lithotripter.

H.R. 2900 (Mr. McEwen): To certify that charges and fees may be collected in connection with foreign trade zones at certain small airports.

H.R. 2962 (Mr. LaFalce): For the relief of Noco Energy Corporation.

Prohibition and Embargo Bills

H.R. 2519 (Mr. Kasich, et al): To ban the importation of all ivory products into the United States, to revoke most-favored-nation treatment of the products of elephant-producing countries that do not have, or enforce, appropriate protection for the animals, and for other purposes.

H.R. 2578 (Mr. Matsui, Mr. Rangel, et al): To prohibit the importation into the United States of certain articles originating in Burma.

DETAILS FOR SUBMISSION OF WRITTEN COMMENTS:

Persons submitting written comments should submit six (6) copies by the close of business Monday, October 23, 1989, to Robert J. Leonard, Chief Counsel, Committee on Ways and Means, U.S. House of Representatives, room 1102 Longworth House Office Building, Washington, D.C. 20515.

SEE FORMATTING REQUIREMENTS BELOW:

Each statement presented for printing to the Committee by a witness, any written statement or exhibit submitted for the printed record or any written comments in response to a request for written comments must conform to the guidelines listed below. Any statement or exhibit not in compliance with these guidelines will not be printed, but will be maintained in the Committee files for review and use by the Committee.

1. All statements and any accompanying exhibits for printing must be typed in single space on legal-size paper and may not exceed a total of 10 pages.
2. Copies of whole documents submitted as exhibit material will not be accepted for printing. Instead, exhibit material should be referenced and quoted or paraphrased. All exhibit material not meeting these specifications will be maintained in the Committee files for review and use by the Committee.
3. Statements must contain the name and capacity in which the witness will appear or, for written comments, the name and capacity of the person submitting the statement, as well as any clients or persons, or any organization for whom the witness appears or for whom the statement is submitted.
4. A supplemental sheet must accompany each statement listing the name, full address, a telephone number where the witness or the designated representative may be reached and a topical outline or summary of the comments and recommendations in the full statement. This supplemental sheet will not be included in the printed record.

The above restrictions and limitations apply only to material being submitted for printing. Statements and exhibits or supplementary material submitted solely for distribution to the Members, the press and public during the course of a public hearing may be submitted in other forms.

H.R. 2519

To ban the importation of all ivory products into the United States, to revoke most-favored-nation treatment of the products of elephant-producing countries that do not have, or enforce, appropriate protection for the animals, and for other purposes.

No statements received.

H.R. 2578

To prohibit the importation into the United States of certain articles originating in Burma.

Testimony of Hon. Silvio O. Conte
In Support of Sanctions on Burma

October 23, 1989

Mr. Chairman:

Thank you for this chance to present my views on HR 2578. I congratulate the Subcommittee on Trade for bringing up this very important bill, and I urge the Subcommittee to report it out favorably.

Burma is not often in the news. But most of us will remember the democracy movement that erupted last year. Millions of Burmese people -- students, workers and ordinary citizens -- filled the streets of Rangoon, Mandalay, and the rest of Burma's cities, asking simply for their freedom. We will also remember that inspiring period's tragic end, when the brutal gang that now runs Burma sent in the army to massacre thousands of them.

The news from Burma a year later is just as sickening. The country's leading opposition figures, Aung San Suu Kyi and U Tin Oo, were arrested in July. We have heard no word from them since then. Less well-known dissenters are in even greater danger. The United States Embassy in Rangoon reports that dissenters are imprisoned in flooded cells, tortured, and sometimes judicially murdered. There are first-hand stories of dissident students and members of ethnic minority groups chained together by the neck, forced to carry the army's guns for miles through the jungle, and murdered when they could go no further. The Burmese government just last week announced it had imposed over a hundred death sentences in the last month.

Burma's people are desperate. In the last thirty years, since the military coup which overthrew U Nu's elected government and brought Ne Win to power, they have been robbed both of political and economic freedoms. This bill, barring American purchases of Burmese teak and fish products, is one of the few steps we take to help them. The regime depends on these products to buy its weapons, pay its thugs and keep itself in luxury while Burma's people go hungry. Cutting off American purchases of teak and fish will remove one of its main sources of support, and may help bring the Burmese people's dream of freedom closer to fruition.

This is not a permanent ban on products from Burma, which would hurt the Burmese people more than their rulers. It is a ban on these two products pending a restoration of democracy and basic human rights. It is the right thing to do. I urge the committee to report it out favorably.

Written Comments: H.R. 2578
To Prohibit the importation into the U.S. of certain articles originating in Burma

Statement of Ms. Edith T. Mirante, Director of Project Maje. October 19, 1989.

Project Maje (14 Dartmouth Rd., Cranford NJ 07016; 201-276-8494) is an independent information project founded in 1986 to encourage American awareness of the political situation in Burma, particularly the frontier war and related human rights, narcotics, and environmental issues.

Burma: Environment Under Siege

A century ago, in his Raj reverie of Burma, "Mandalay", Rudyard Kipling wrote of "Elephants a-pilin teak...where the silence 'ung that 'eavy you was 'arf afraid to speak." Today the silence has been replaced by the noise of chainsaws, bulldozers, logging trucks, and heavy artillery fire, as the military regime of Burma wages a war to gain control of tribal forests. The elephants and teak groves are caught in the crossfire and have become the spoils of war.

The Burmese junta, desperate to gain foreign exchange for arms purchases, has sold logging concessions for vast tracts along the Thailand-Burma frontier, mainly to Thai companies. It has also sold off fishing rights to Burma's southern seacoast to foreign firms. This situation has prompted U Nu, Burma's last freely elected leader, to predict, "Our forests will disappear. There will be no more fish in our waters."

U Nu had been deposed in 1962 by General Ne Win, who ruled Burma until last year, when massive pro-democracy demonstrations brought his regime to the brink of overthrow. Instead of achieving democracy, Burma was turned over to a junta of Ne Win's henchmen, with General Saw Maung in charge. Saw Maung took the helm of a country impoverished by years of state mismanagement, isolated and stagnant, with a 5.3 billion dollar debt approaching a 100% debt-service ratio. Foreign exchange reserves were exhausted, and foreign aid had been cut off by major donors (including Japan, West Germany, and the United States) in protest of the regime's brutal suppression of dissent in which thousands of peaceful demonstrators were massacred. When Saw Maung took over in September 1988, many observers thought that his army would run out of ammunition in a matter of months.

Burma, however, is endowed with unexploited natural resources, including minerals, oil, marine life, and forests. Saw Maung sought to remedy his foreign exchange problems by seeking foreign buyers for the most immediately extractable: products of forests and sea. In December 1988, Thailand's Army Commander, General Chaovalit Yongchaiyut, visited Burma. He arranged for repatriation to Burma of dissident Burmese students who had sought refuge in Thailand, and after amicable meetings with Saw Maung, obtained lucrative timber and fishing concessions for several Thai firms with military connections.

Thailand's own forests, including valuable teak trees, had been logged at a rate of 3% a year to the point of no return. November 1988's huge floods in deforested southern Thailand spurred the Thai Government to ban logging nationwide. This was followed by the rush to make timber deals with formerly isolationist Burma. Although Burma was more heavily forested than neighboring Thailand, deforestation was proceeding at an alarming rate even before the new concessions. UN estimates indicate that Burma had a 57% forest cover in the 1950s, a 48% forest cover in 1980, and only 40% now. Teak reserves in central Burma were being chewed away by the government Timber Corporation, which a well informed source has termed "responsible for permitting indiscriminate and reckless exploitation of Burma's valuable teak resources." However, much of Burma's frontier areas remained thickly forested, largely because those regions were the scene of a long running ethnic minority rebellion which prevented government access to the timber.

1989 has brought the "Teak War" into these frontier forests, which are inhabited by indigenous tribes including the Karen and Karenni. In January, a Thai border police commander said in the Thai newspaper The Nation that "the Burmese government troops have intensified their attacks against Karen forces as they want to commence logging operations to supply the Thai market from the forests which the ethnic dissidents occupy." Burmese campaigns in the frontier areas are characterized, according to Amnesty International, by "a consistent pattern of gross violations of human rights." Thousands of tribal noncombatants have fled to Thailand this year as the Burmese Army has fought rebels with heavy shelling and rocket barrages. The tribespeoples' flight from established villages where they had lived in harmony with the forest has caused them to clear new land with destructive slash and burn cultivation.

In addition to deciduous teak groves, the frontiers contain "monsoon forests" which are the habitat of rare wildlife including tigers, rhinoceros, and wild elephants. The elephants had been protected by the tribal people, who tame them rather than killing them, but their sanctuary is in the path of the Burmese offensive, and the elephants are being killed by government soldiers with automatic weapons. This summer the Burmese government announced sales of $25,000 worth of ivory to foreign firms, another boost for its foreign exchange build up.

Formerly, logs were transported by elephants who pulled them along jungle paths, but current methods entail the bulldozing of logging roads. The new roads cut a damaging swath through the monsoon forests, eroding the vulnerable soil. In some areas, the junta has reportedly made arrangements with drug warlords, including the notorious "heroin king" Khun Sa, for transport of logs through their territory. Sources in northern Thailand assert that Thai firms commonly deal in both commodities: narcotics and wood, and that logging trucks have become the favored transport for Golden Triangle opium and heroin.

Environmental degradation extends to the seacoast, where fishing people of the Cambodian-related Mon ethnic group have lived for centuries, heirs to an ancient civilization that brought Buddhism to Southeast Asia. Trawlers from Thailand and other countries are carrying off fish and shellfish, and the Mon people have been prevented from taking their small wooden boats out to fish. According to a Mon underground leader, Nai Shwe Kyin, "With the help of radar equipments Thai trawlers are catching large, medium and small fish. At this rate most varieties of fish would be depleted in no time. Mon fishing people could not compete with such modern techniques and they suffer much."

The new foreign trade policies do not benefit the Burmese people, who after decades of war and economic decay are among the world's poorest, with a per capita income of less than $200.00 per year. Over 50% of the government's expenditures go to supply the Army, one of the highest rates in the world, and military spending has increased with the new inflow of foreign exhange. The Army has been increased in troop strength from 185,000 to almost 200,000 over the past year, and troops are deployed to enforce martial law in the cities as well as in suppression of rebellion in frontier areas. The Far Eastern Economic Review recently (Oct. 5, 1989) stated that the Burmese junta "has procured vast quantities of munitions from abroad with hard currency earned from the sale of teak, precious stones and fish to various foreign countries." The Review also states that Burma's arms shipments have come from Belgium and Israel via Singapore, and from the state-run Pakistani ordnance factories.

Japan and Australia have resumed foreign aid to Burma, and Burma's most prominent opposition leader, Aung San Suu Kyi (currently under house arrest in the capital city of Rangoon) has commented, "I can't help wondering whether Australia's policy has more to do with economic considerations rather than human rights and a desire for democracy." Australian Senator Jean Jenkins stated in July 1989, "I feel quite ill when I walk around Parliament House and see fittings crafted out of Burmese teak -- the gift of a wicked and corrupt regime -- which may soon be a souvenir of Burma's magnificent forests." Logging and fishing deals have been directly entered into by companies from Japan, Singapore, South Korea, Malaysia, Hong Kong, and Australia, while American firms purchase Burmese timber and seafood primarily through Thai contacts.

United States Senator Daniel Patrick Moynihan has introduced legislation (S.B. 822) to ban import of teak and seafood products from Burma, citing the need for the United States to "do what it can to keep hard currency, and the guns that hard currency buys, from the Burmese military." The Malaysian based World Rainforest Movement has issued a protest stating that "the Asian mainland's largest intact tropical forest area is now in grave danger of being denuded as demand for Burmese wood increases, making the export of tropical wood an increasingly lucrative business in Burma." San Francisco's Rainforest Action Network called in August 1989 for a consumer boycott of "Burmese and so-called Thai teak", stating "Burma's teak forests are being cut at a drastic rate."

For Burma's forest tribes and Mon fishermen, time is running out. Having lived in a sustainable way with ocean and forest, they are now driven from their homes by the Burmese Army, to make way for the one-shot exploitation of their only wealth. A Karen educator has said, "The Thai government is playing a very cunning political game to get benefit as much as it can from Burma's resources. Burmese are selling resources like fast food. All the forest along the border will be gone within a period of three years." The result will be a dispossessed population, and a new addition to the flood-drought-flood cycle seen elsewhere in Asia. War and greed are manufacturing another Third World "basket case."

What Australian Senator Jenkins has termed "the rape of Burma's teak forests and fisheries by fast buck merchants" is a crime which the United States should condemn in full. U.S. policy is firmly on the side of democracy and human rights in Burma -- a fact greatly appreciated by the people of Burma -- and trade policy should put muscle behind the United States Government's condemnation of the Burmese regime's repression. Burma is uniquely vulnerable to economic boycott due to its lack of a foreign exchange base. An import ban on forest and ocean products will keep hard currency out of the Burmese Army's pockets, will help preserve endangered tropical environments and wildlife, and will send the message loud and clear to the people of Burma that America cares about them.

H.R. 2701

To extend the existing suspension of duty on triphenyl phosphate.

No statements received.

H.R. 2721

To extend the existing suspension of duty on graphite.

DON RITTER
15th District, Pennsylvania

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Commerce, Consumer Protection and Competitiveness
Telecommunications and Finance

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Ranking House Minority Member

Congress of the United States
House of Representatives
Washington, DC 20515

2447 Rayburn Office Building
Washington, DC 20515
(202) 225-6411

District Offices
Suite 200
2 Bethlehem Plaza
Bethlehem, PA 18018
(215) 865-0918

Hotel Traylor, Suite 209
1444 Hamilton Street
Allentown, PA 18102
(215) 439-8881

Room 705
Alpha Building
Easton, PA 18042
(215) 258-8383

Chairman—Republican Task Force on High Technology and Competitiveness

May 5, 1989

76

The Honorable Sam Gibbons
Chairman, House Ways and Means
Subcommittee on Trade
1136 Longworth House Office Building
Washington, DC 20515

Dear Sam:

Attached please find a copy of a letter I received from Mr. H. Marvin Riddle, III, a constituent of mine from Pennsylvania.

In his letter, Mr. Riddle discusses his interest in the continuation of the duty free status of graphite. I would greatly appreciate it if you could review his letter and get back to me with any other comments you may have regarding his proposal.

Sincerely,

DON RITTER
Member of Congress

DLR/mv
Enclosure

H. MARVIN RIDDLE III
3635 CHIPMAN ROAD
EASTON, PENNSYLVANIA 18042

April 17, 1989

The Hon. Donald L. Ritter
U. S. House of Representatives
Washington, DC 20515-3207

Dear Don:

In the Trade Bill which was approved by Congress last September, there was a paragraph continuing the exemption of graphite on the duty free status for an additional two years. It took us over a year to get this through Congress and this extension, which is the 4th or 5th extension, is now due to expire December 31, 1990. Because of the time it took, I am wondering if it wouldn't be an opportune time to seek a further extension or an elimination of the duties on graphite, since effectively they have been eliminated for more than 10 years.

Sincerely,

H. Marvin Riddle, III

HMR:tk

H.R. 2864

Regarding the reliquidation of a certain extracorporeal shock wave lithotripter.

ROBERT T. MATSUI
Third District, California

COMMITTEE ON
WAYS AND MEANS

SUBCOMMITTEES
TRADE
HUMAN RESOURCES

WHIP AT LARGE

WASHINGTON OFFICE
2419 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515
(202) 225-7163

DISTRICT OFFICE
8058 FEDERAL BUILDING
650 CAPITOL MALL
SACRAMENTO, CA 95814
(916) 551-2846

Congress of the United States
House of Representatives
Washington, DC 20515

October 23, 1989

The Honorable Sam Gibbons, Chairman
Subcommittee on Trade
Committee on Ways and Means
U.S. House of Representatives
1136 Longworth House Office Building
Washington, D.C. 20515

Dear Sam:

I am writing to request this letter be included in the committee record on miscellaneous tariff issues. I appreciate your assistance with this matter.

As you know, I introduced H.R. 2864 on July 11, 1989 which would require the liquidation of an extracorporeal shock wave lithotripter. This legislation would refund $189,964.32 in Customs duties to Saint Joseph Medical Center of Burbank, California.

There is no question that Saint Joseph Medical Center is entitled to duty-free entry of its kidney lithotripter. At the same time that its Dornier lithotripter was imported from West Germany in November, 1985, an application for duty-free entry under the Educational, Scientific, and Cultural Materials Importation Act of 1966 (P.L. 89-651) and implementing regulations (15 CFR 301) was made to the U.S. Customs Service in Washington, D.C. While that application was being jointly processed by Customs and the Department of Commerce, Customs officials at the port of entry in Los Angeles liquidated the entry and the liquidation became final. Upon Commerce approval of the duty-free application, (which did not occur until more than one and one-half years after it was filed, despite the fact that the governing regulations instruct the Department to reach its decision "promptly" (19 CFR 301.5(f)) Saint Joseph Medical Center sought its refund from Customs, but port officials refused to consider reliquidation and advised the importer that the liquidation had become final on May 1, 1986.

Subsequently, Saint Joseph Medical Center became entitled to duty refund under Section 1747 of the Omnibus Trade and Competitiveness Act of 1988 (Act), but the necessary request for reliquidation to Customs officials was not made before the deadline of April 1, 1989. The substantive issues concerning the economic impact of such refunds were considered by Congress prior to the passage of the Act. It was expected that $189,964.32 would be refunded to Saint Joseph under the Act. Of particular note is that the refunding of the duty is more than offset by the containment of health care costs, and the subsequent reduction of Medicare reimbursements. The importation of this equipment, when treated properly by the Department of Commerce for purposes of duties, simultaneously benefits the importer and the public interest.

I appreciate the opportunity to comment on the overwhelming merits of this legislation.

With warm regards, I am

Very truly yours,

ROBERT T. MATSUI
Member of Congress

COMMENTS IN SUPPORT OF H.R. 2864

(Regarding the reliquidation
of a certain extracorporeal
shock wave lithotripter)

These comments are submitted by St. Joseph Medical Center (St. Joseph) of Burbank, California, a health care institution which is organized and operated by the Roman Catholic Order of the Sisters of Providence. St. Joseph seeks the reliquidation of entry number 86-707943-6, dated November 10, 1985, in order to obtain a refund of duties in the amount of $189,964.32, paid to expedite delivery of an extracorporeal shock wave lithotripter. H.R. 2864 provides for reliquidation of the entry filed by St. Joseph in order to effect a refund of those duties to which St. Joseph is entitled.

Lithotripters are a revolutionary advance in kidney stone treatment, destroying the stones by shock waves from outside the body. At the time of importation, in December, 1985, the sole manufacturer of lithotripters approved by the Food and Drug Administration for patient treatment was outside the United States, and in order to treat patients by lithotripsy, importation of the machinery was necessary.

Reliquidation of entry 86-707943-6, dated November 10, 1985, is justified for the following reasons:

1. To correct a governmental administrative inequity

H.R. 2864 is a bill designed to correct an inequity under which St. Joseph paid $189,964.32 in import duties on the importation, in November, 1985, of a kidney lithotripter. St. Joseph was entitled to duty free entry of this machine under the Educational, Scientific and Cultural Materials Importation Act of 1966 (P.L. 89-651) and implementing regulations (19 CFR 301). The 1966 act permits duty-free entry of educational or scientific equipment where no domestic counterpart exists and, in 1985, no domestic counterpart was available.

St. Joseph applied for duty-free treatment of its lithotripter with the U.S. Department of Commerce (DOC) in November, 1985. The DOC's approval of St. Joseph's application took more than one and one-half years, becoming final in July, 1987. Rather than waiting for the bureaucracy to act, St. Joseph put its patients' interests first, and entered the machine and paid the import duties of $189,964.32. Despite DOC's approval of duty-free entry, the U. S. Customs Service refused to refund the import fees to St. Joseph on technical grounds, as liquidation had become final. This situation might have been avoided if the Federal bureaucracy had acted more quickly, and if St. Joseph, an inexperienced importer, had not thought first of the best interests of its patients and directly imported the machine.

2. No negative revenue impact

From December, 1985, until the present, St. Joseph has treated 1,485 patients with the lithotripter machine, thereby avoiding an expensive invasive surgical procedure in each case. Surgical removal of a kidney stone averages $13,500. each, including physician and anesthesiologist fees, compared to $6,300. for removal of kidney stones by lithotripsy procedure. The cost savings computes to $7,200. each, or $10,692,000 for the 1,485 patients. Medicare's share of this savings approximates

$5,000,000. Not included in this cost savings estimate is the four to five week total recovery period for surgical removal compared to three to five days for lithotripter patients. About 95% of lithotripsy procedures are performed on an out-patient basis. Since Medicare is required to pay for its proportionate share of the cost of any capital overtime, Medicare will avoid being charged with 48% of the import duties on St. Joseph's lithotripter as reimbursement for capital costs. So, H.R. 2864 will have no negative revenue impact and, in fact, will save federal revenues.

3. The Omnibus Trade and Competitiveness Act of 1988 Provided for Duty-Free Reliquidation

Section 1747 of the 1988 Omnibus Trade and Competitiveness Act (P.L. 100-418) provided for duty-free reliquidation. Unfortunately, St. Joseph's application this spring for reliquidation was considered untimely by only a matter of weeks. H.R. 2864 would permit a reliquidation of the entry filed by St. Joseph, and, finally, the duty-free entry to which St. Joseph has always been entitled.

The Congress should act positively on H.R. 2864. By doing so, it will help the United States contain soaring health care costs. It is only fair and just that this entry should be reliquidated and the duty payment refunded to St. Joseph Medical Center.

St. Joseph Medical Center Burbank, California

October 19, 1989

H.R. 2900

To certify that charges and fees may be collected in connection with foreign trade zones at certain small airports.

No statements received.

H.R. 2910

To reduce temporarily the duty on certain frozen carrots.

No statements received.

H.R. 2962

For the relief of Noco Energy Corporation.

No statements received.

H.R. 3010

To temporarily suspend the duty on O,O-Dimethyl-S-[(4-oxo-1,2,3-benzotriazin-3(4H)-yl)methyl]phosphorodithioate.

Mobay

Bayer

Mobay Corporation
A Bayer USA Inc. Company

H.R. 3010

Mobay Road
Pittsburgh, PA 15205-9741
Telephone 412-777-2000

B. C. JANDAK

AGRICULTURAL CHEMICAL DIV., KANSAS CITY, MO.

TEL: 816-242-2489

AND

P. G. GEMEINHARDT

TEL: 412-777-4875

Mobay Corporation is a unit of Bayer USA, Inc. whose parent company is Bayer AG of Leverkusen, West Germany. Since its formation in the early 1960s, Mobay has become a diversified manufacturer of chemical products, chemical intermediates and polymeric resins. We supply products to broad areas of U.S. industry from major plants located in Maryland, Missouri, South Carolina, Texas and West Virginia. These products include polyurethane raw materials and polymers, agricultural chemicals, dyestuffs, pigments, plastic resins, coating and paint ingredients, textile fibers and industrial chemicals.

While many of the products supplied to U.S. industry are domestically produced, we import certain critical raw materials and ingredients when they are not available in this country and substitutes do not exist. These imported ingredients are essential in the domestic manufacture of agricultural chemicals. O, O-Dimethyl-S-[4-oxo-1,2,3-benzotriazin-3(4HO-yl) methyl] phosphorodithioate (also known as azinphos-methyl is such an ingredient. Mobay Corporation supports temporary duty suspension on imports of this chemical intermediate.

The Agricultural Chemicals Division of Mobay Corporation imports azinphos-methyl at its Kansas City, Missouri chemicals plant. The U.S. Customs Service classifies azinphos-methyl under heading 2933.90.1800, Harmonized Tariff Schedule of the United Sates, as a heterocyclic compound with nitrogen hetero-atom(s) only, nucleic acids and their salts: other insecticides, and dutiable at the rate of 12.5% ad valorem. The following facts support temporary duty suspension:

1. Mobay Corporation in the U.S. and an Israeli Company are licensed to import azinphos-methyl into the United States for use in the domestic production of agricultural insecticides. No other companies, foreign or domestic, are approved by EPA for production or use of azinphos-methyl in the U.S. Thus, suspension of Customs duties on azinphos-methyl will not adversely effect any U.S. manufacturer or importer.

2. The Israeli importer of azinphos-methyl, imports azinphos-methyl duty-free under the U.S.-Israel Free Trade Area Implementation Act of 1985. Suspension of Customs duties will allow Mobay Corporation to compete on an equal basis with its only competitor in this market.

3. Azinphos-methyl is the active ingredient used in the production of a registered agricultural insecticide. The insecticide was first registered by Mobay (then Chemagro) in 1953 for use on cotton. Since then, the number of crops and plants registered with EPA has been expanded and now covers barley, oats, rye, wheat, pasture grasses, soybeans, sugarcane, tobacco, apricots, nectarines, peaches, plums, prunes, blackberries, cranberries, citrus fruits, grapes, strawberries, almonds, filberts, pecans, walnuts, artichokes, beans (snap & dry), broccoli, brussels sprouts, cabbage, cauliflower, celery, black-eyed peas, cucumbers, eggplant, onions, peppers, potatoes, spinach, tomatoes, melons and ornamental plants.

   Continuing these registrations on such a broad range of agricultural and ornamental crops is of great importance to the American farmer and grower. Such registrations are also extremely costly, requiring millions of dollars for providing the required data to satisfy the changing standards and regulations imposed by EPA and other agencies.

4. Suspending the duty on azinphos-methyl will help to defray some of the high cost in maintaining registrations and continuing updated toxicology and environmental testing, without favoring Mobay's competitive position in the marketplace. Indeed, it will allow Mobay to compete on an equal basis with the only other importer of azinphos-methyl whose imports are already duty-free under the U.S-Israel Free Trade Area Implementation Act.

5. Most importantly, the farmer and grower of agricultural and ornamental crops will benefit because the suspension will aid in stabilizing their costs, and retaining the tools necessary to keep production yields high. The maintenance of such a time tested, essential crop protection tool available from azinphos-methyl is certainly of utmost importance to U.S. Agriculture.

The suspension of duty on azinphos-methyl is, therefore, crucial to the continued availability of this ingredient for final formulation in the U.S. The alternative is a complete shift of all production (including formulation) offshore, or the removal of this insecticide from the U.S. Mobay Corporation seeks and supports the passage of H.R. 3010.

If there is need for further discussion of this matter, please call the writer or B. C. Jardak, International Business Manager, Agricultural Chemicals Division.

Respectfully submitted,

Paul Gemeinhardt

P. G. Gemeinhardt

H.R. 3011

To suspend temporarily the duty on 4-Fluoro-3-phenoxy benzaldehyde.

Mobay

Bayer

Mobay Corporation
A Bayer USA INC. COMPANY

H. R. 3011

Mobay Road
Pittsburgh, PA 15205-9741
Telephone: 412/777-2000

B. C. JARDAK

AGRICULTURAL CHEMICAL DIV., KANSAS CITY, MO.

TEL: 816-242-2489

AND

P. G. GEMEINHARDT

TEL: 412-777-4875

Mobay Corporation is a unit of Bayer USA, Inc. whose parent company is Bayer AG of Leverkusen, West Germany. Since its formation in the early 1950s, Mobay has become a diversified manufacturer of chemical products, chemical intermediates and polymeric resins. We supply products to broad areas of U.S. industry from major plants located in Maryland, Missouri, South Carolina, Texas and West Virginia. These products include polyurethane raw materials and polymers, agricultural chemicals, dyestuffs, pigments, plastic resins, coating and paint ingredients, textile fibers and industrial chemicals.

While many of the products supplied to U.S. industry are domestically produced, we import certain critical raw materials and ingredients when they are not available in this country and substitutes do not exist. These imported ingredients are essential in the domestic manufacture of agricultural chemicals. 4-Fluoro-3-phenoxy benzaldehyde (FPBA) is such an ingredient. Mobay Corporation supports temporary duty suspension on imports of this raw material.

The Agricultural Chemicals Division of Mobay Corporation imports FPBA, a raw material used in the production of an agricultural insecticide, at its Kansas City, Missouri chemicals plant. The U.S. Customs Service classified FPBA under heading 2913.00.1000, Harmonized Tariff Schedule of the United States, as an aromatic aldehyde and dutiable at the rate of 20% ad valorem. At this high duty rate, the continued production in the U.S. of insecticides containing FPBA is seriously jeopardized. The following facts support temporary duty suspension on FPBA:

1. Mobay Corporation is the only importer of FPBA into the United States. The only manufacturer of FPBA world-wide is Bayer AG of West Germany, who supplies the material to Mobay Corporation. Neither the technology nor the equipment to produce FPBA is available in the United States. Thus, suspension of customs duties on FPBA will not adversely affect any U.S. manufacturer or importer.

2. FPBA is a unique fluorinated benzaldehyde. It is the primary raw material used in the production of a highly specialized and very expensive agricultural insecticide. This insecticide is EPA approved for use on cotton, with application for registrations on file with EPA for use on corn fruit, peanuts, potatoes, vegetables and related crops. The active ingredient produced from FPBA is also patented in the United States so there is no identical competing product manufactured or otherwise available in the United States. While there are several other insecticides which contain a benzaldehyde, none of them use FPBA or any other fluorinated benzaldehyde. The unique characteristics of this fluorinated compound include reduced rates placed in the environment, broader spectrum insect control and increased residual control which allows fewer pesticide applications.

3. The cost to produce FPBA is approximately thirty-three (33) times the cost to produce other benzaldehydes. Consequently, the cost of the final insecticide product is substantially higher than other insecticides used for similar purposes. The temporary suspension of duties on FPBA will not bring Mobay's insecticide into unfair competition with these other insecticides, but will allow a reduction in the cost of Mobay's insecticide so that margins necessary to cover research, development and registration can be maintained at a level similar to other compounds with lower production costs.

4. Duty suspension on FPBA will benefit the United States and its agricultural industry by reducing the cost to obtain the primary raw material in this specialized insecticide. Consequently, it will help assure the availability of cost efficient crop production tools to U.S. agriculture which should assist in the growth of healthier, pest free, cost competitive crops in the United States.

Temporary duty suspension on FPBA will insure that the highly specialized insecticides containing this active ingredient will continue to be manufactured in the U.S. and readily available to U.S. Agriculture. Mobay Corporation seeks and supports the passage of H.R. 3011.

If there is need to discuss this matter further, please call the writer or B. C. Jardak, International Business Manager, Agricultural Chemicals Division.

Respectfully submitted,

Paul Gemeinhardt

P. G. Gemeinhardt

H.R. 3018

To suspend temporarily the duty on metallurgical fluorspar.

No statements received.

H.R. 3019

To reduce temporarily the duty on certain ceramic statues, statuettes, and handmade flowers.

CHRISTOPHER H. SMITH
4th District, New Jersey

COMMITTEE ON FOREIGN AFFAIRS
Subcommittee on Europe and the Middle East
Subcommittee on Human Rights and International Organizations, Chairman

COMMITTEE ON VETERANS' AFFAIRS
Subcommittee on Health and Hospitals
Subcommittee on Education, Training and Employment - Vice Chairman

COMMISSION ON SECURITY AND COOPERATION IN EUROPE
SELECT COMMITTEE ON AGING

Congress of the United States
House of Representatives
Washington, DC 20515

2373 Rayburn House Office Building
Washington, DC 20515
(202) 225-3765

1720 Oakhurst Avenue
Suite 1
Toms River, NJ 08753
(908) 240-0600

427 Main Street
Room 1
Metuchen, NJ 08840
(908) 548-0276

840 Park Avenue, Room 23
Plainfield, NJ 07060
(201) 756-0707

October 16, 1989

The Honorable Sam Gibbons
Chairman
Subcommittee on Trade
1136 Longworth HOB
INSIDE MAIL

Dear Chairman Gibbons:

I am writing this letter to ask your assistance in having my bill, H.R. 3019, favorably reported from your Subcommitee. H.R. 3019 reduces temporarily the duty on certain ceramic statues, statuettes, and handmade flowers.

As you may recall, in the 100th Congress I introduced H.R. 4092 to deal with this same tariff matter. The Subcommittee on Trade favorably reported H.R. 4092 to full Ways and Means Committee, however, like many other miscellaneous tariff bills, it was not included in the Technical and Miscellaneous Revenue Act of 1988. Therefore, I reintroduced this measure, with the new Harmonized Tariff numbers and a modified expiration date.

H.R. 3019 is a temporary reduction in duty designed to expire on or before December 31, 1994. The duty on these products had previously been reduced from 3.1% to 2.6%. My legislative efforts have been to temporarily continue this reduced rate of duty.

I hope that the Subcommittee will see fit to again favorably report this bill. If there is any further information that I could provide to assist in the enactment of this measure, please contact me.

Sincerely,

CHRISTOPHER H. SMITH
Member of Congress

CHS/bjs

H.R. 3060

To suspend temporarily the duty on 2,3,6-Trimethylphenol (TMP).

No statements received.

H.R. 3111

To amend the Tariff Schedules of the United States to reclassify apparel consisting of fabric composed of man-made fiber and cotton blends.

STATEMENT OF
AMERICAN TEXTILE MANUFACTURERS INSTITUTE, INC.

TO THE COMMITTEE ON WAYS & MEANS,
U.S. HOUSE OF REPRESENTATIVES

IN RE. H.R. 3111, A BILL TO AMEND THE
TARIFF SCHEDULES OF THE UNITED STATES

This statement is submitted by the American Textile Manufacturers Institute (ATMI), the national association of the textile mill products industry. ATMI's member firms collectively account for more than eighty percent of the output of the textile mill products industry and are engaged in every facet of textile production and sales.

ATMI and its member firms strongly support passage of H.R. 3111, a bill to amend the Tariff Schedules of the United States with respect to certain wearing apparel entered under statistical reporting number 9802.00.8010. This legislation, if enacted, will correct an anomaly created by the United States' adoption of the Harmonized System of tariff nomenclature, an anomaly that has created economic hardship for American textile mills and, more particularly, for their apparel manufacturer customers who assemble apparel abroad for importation under the above-referenced statistical reporting number.

The products affected by this legislation are apparel assembled abroad from cut pieces made of fabric formed in the United States of a blend of 50 percent cotton and 50 percent man-made fibers. This blend of fibers has, over the years, gained the greatest consumer acceptance and, consequently, is the most widely used blend of fibers among the myriad of combinations available.

Before the United States' implementation of the Harmonized Tariff Schedule (HTS) on January 1, 1989, textile products (including apparel) which were a blend of two or more fibers were classified for duty purposes according to the fiber(s) which represented the chief value of the constituent fibers. Under this procedure, products which were a blend of 50 percent cotton and 50 percent man-made fibers were declared to be in chief value of cotton and were so dutied. This practice existed for many years prior to January 1, 1989 and a very large volume of business was created in this environment.

The new Harmonized Tariff Schedule, implemented pursuant to an Act of Congress, requires that textile products which are a blend of two or more fibers be classified for duty purposes according to the fiber(s) which constitutes the chief weight of the entirety, not the chief value. In the case of 50 percent cotton/50 percent man-made fiber blends, the HTS mandates that these be classified as of man-made fibers. Thus, commercial and customs practice of more than a decade's standing is completely overturned. Moreover, because import duties on man-made fiber apparel are approximately twice as great as on cotton apparel, firms assembling apparel abroad of American-formed 50/50 blend fabric have experienced a sudden, unexpected and substantial increase in their cost of doing business. Current practice also violates the principle that the Harmonized Tariff Schedules are supposed to be duty-neutral, import duties are not supposed to be raised or lowered as a result of their implementation. Clearly, that is not the case in this instance.

Under current practice, which stipulates a determination of fiber content on a physical rather than economic basis, the U.S. Customs Service has adopted unrealistically stringent regulations for such determination. If an importer declares an item of apparel to be a blend of 50 percent cotton/50 percent man-made fiber and so labels the item, Customs will permit virtually no deviation from the stated blend. It is well known that no textile mill can produce fabric to such exacting specifications. For this reason, the Federal Trade Commission permits a tolerance of 3 percentage points in the declaration of fiber content under the Textile Fiber Products Identification Act. But the FTC does not have jurisdiction in the matter at hand; the U.S. Customs Service does and it has announced that it will not permit the leeway that the FTC does. H.R. 3111 would neutralize Customs' commercially unrealistic posture.

In the aftermath of President Reagan's speech in St. Georges, Grenada in February, 1986 and pursuant to the President's instructions, a Special Access Program (SAP) for imports of apparel assembled in the designated beneficiary countries of the Caribbean Basin Economic Recovery Act (CBERA) was established. Since then, imports of such apparel items, entered under statistical reporting number 9802.00.8010, have increased substantially and currently equal 117 million square meters equivalent worth $ 339 million (12 months ended August, 1989). A large portion of these imports are of 50 percent cotton/50 percent man-made fiber blends. This trade benefits American textile mills, firms assembling apparel in CBERA countries under the provisions of the SAP, the majority of which are American-owned, and workers in the Caribbean and Central America. All these benefits, however, are jeopardized and the well-being of all participants imperiled under the present system of classification which requires 50/50 blends to be dutied as of man-made fiber.

One large American-owned firm alone is required to pay an additional $1 million in import duties per year as a result of the current situation. H.R. 3111 would correct the anomaly created by the implementation of the HTS, remedy an unfairness harmful to all parties concerned and restore the status quo that existed before January 1, 1989. Enactment of H.R. 3111 would also satisfy international and national obligations with regard to the neutrality of the HTS.

For these reasons, ATMI supports H.R. 3111 and urges its expeditious consideration and passage.

H.R. 3130

To suspend temporarily the duty on ranitidine hydrochloride.

SB
SmithKline Beecham

October 23, 1989

Mr. Robert J. Leonard
Chief Counsel
Committee on Ways and Means
U.S. House of Representatives
Room 1102 Longworth House Office Building
Washington, D.C. 20515

Dear Mr. Leonard:

This letter is in response to Chairman Gibbons' release of September 19 inviting comments on certain tariff and trade bills that are pending before the Subcommittee on Trade.

SmithKline Beecham offers the following comments in opposition to one of those bills, H.R. 3130, a proposal to suspend the duty on ranitidine hydrochloride, the active ingredient in 'Zantac', an anti-ulcer medication.

We have a proprietary interest in this matter. Our 'Tagamet' brand of cimetidine, as the original product in the therapeutic class, competes directly with 'Zantac'.

Introduction and Recommendation

H.R. 3130 was introduced on August 3, 1989. Comparable legislation was introduced in the Senate on July 18 (S. 1342). The rationale for this legislation is that its adoption would make it economically feasible for Glaxo to retain sufficient employees in the United States to begin production in this country. In short, it is contended that only if H.R. 3130 passes can Glaxo afford to begin U.S. manufacture of ranitidine. The arguments being used to advance this legislation are substantially misleading, as will be shown below. It is SmithKline Beecham's recommendation that the Subcommittee not report H.R. 3130.

Background

'Zantac' brand of ranitidine is manufactured by Glaxo Inc. It is one of four "H_2 antagonist" prescription drug products, which are used to treat peptic ulcers and other gastrointestinal conditions, in a highly competitive market. The three competing products are 'Tagamet' (cimetidine), manufactured by SmithKline Beecham Pharmaceuticals; 'Pepcid' (famotidine), a product of Merck Sharp & Dohme; and 'Axid' (nizatidine), manufactured by Eli Lilly & Co. 'Carafate' (sucralfate), from Marion Laboratories, also competes in this therapeutic area, but is not an H_2 antagonist.) All of these products are used extensively in the treatment of a variety of acid-related diseases.

One Franklin Plaza, PO Box 7929, Philadelphia, PA 19101 Telephone (215) 751 4000 Fax (215) 751 3400

'Zantac' was developed by Glaxo in England and is formulated in the United States from imported ranitidine. 'Tagamet' was discovered by SmithKline scientists in the United Kingdom; all materials used in its U.S. formulations are manufactured in the United States. 'Axid' is manufactured in the United States, while 'Pepcid' and 'Carafate' are formulated in the U.S. from ingredients imported from Japan, pursuant to the terms of licenses with the firms that invented them. (The technology required to produce them in the U.S. no doubt exists in the U.S., but the terms of license may disallow U.S. manufacture.)

The innovator among these competing products is 'Tagamet', introduced in 1976 in the United Kingdom and 1977 in the United States. 'Zantac' reached the U.S. market in 1983, 'Pepcid' was approved in 1986, and 'Axid' was first marketed here in 1988.

Glaxo introduced 'Zantac' at a significant price premium, and has continuously maintained that premium. Its premium price notwithstanding, 'Zantac' has the largest market share -- 58%, compared to 29% for 'Tagamet', 10% for 'Pepcid' and 3% for 'Axid.' On a cost per day of therapy basis, the average wholesale price of 'Zantac' is approximately 20% higher than 'Tagamet's. 'Zantac' is significantly higher than the prices of the other competing products as well.

The Rationale for the Proposed Duty Suspension is Erroneous

Several erroneous claims are made in support of the proposed duty suspension for ranitidine. The nature of these errors is explained below.

1. Claim: Ranitidine is not currently produced in the United States and must be imported from abroad.

   Fact: The only reason ranitidine is imported is because Glaxo chooses to manufacture it in the U.K. As Glaxo holds the patent on ranitidine, Glaxo could readily decide to manufacture ranitidine in the United States.

2. Claim: Suspension of the duty on ranitidine would benefit U.S. interests in having it produced in the U.S.

   Fact: To the contrary, suspension of the import duty on this billion dollar drug product would cost the U.S. Treasury many millions of dollars with categorically no offsetting benefit. Clearly, interests of the U.S. are best served by retaining the duty as an incentive to entice Glaxo to set up U.S. manufacturing of ranitidine, whereupon it would escape the duty legitimately.

   Moreover, it must be recognized that if Glaxo is excused from paying this duty, other firms will interpret Congress' action as a signal to them that if they establish manufacturing (and jobs) overseas they too may expect exemption from the duty.

3. Claim: Duty suspension, by reducing the production costs of 'Zantac', will permit Glaxo to use resources for additional manufacturing capacity in the United States.

   Fact: 'Zantac's market share and price premium, documented above, provide more than ample financial resources for expansion of production facilities in the United States.

4. Claim: Duty suspension on ranitidine will not negatively affect U.S. competition.

   Fact: Duty suspension on ranitidine would give Glaxo -- already the dominant firm in the field -- a financial windfall and a significant advantage over its competitors who pay the duty on the materials they import. This could further increase Glaxo's dominance and thus allow it to extract ever greater premiums.

5. Claim: Duty suspension for ranitidine will increase employment in the United States.

   Fact: Duty suspension would remove any tax incentive to Glaxo to start up manufacture in the U.S. and increase its U.S. employment. Glaxo appears in effect to be saying that it will increase U.S. employment in return for suspension of the duty; but if Glaxo were to set up U.S. ranitidine manufacture, the duty would be avoided without Congressional action. It seems worthwhile to question why the Congress is asked to legislate something that Glaxo or any other firm can achieve entirely on its own at will.

Summary and Conclusions

1. Legislation excusing Glaxo from paying import duties on ranitidine is neither needed nor justified in order to encourage Glaxo to set up U.S. production of the chemical. The means of avoiding the duty is easily within Glaxo's hands -- it merely has to put its ample resources to work to build the plant and hire the people -- whereupon it will not be liable for the duty.

2. Were the Congress to accede to Glaxo's demand, Glaxo's U.S. competitors who still pay the duty would suffer unjust competitive disadvantage and the U.S. would lose the only leverage it has with Glaxo to encourage it to produce ranitidine here.

3. Passage of H.R. 3130 would encourage every importer of raw materials to seek similar relief, which would result in tax losses to Treasury of tens of millions of dollars.

We strongly urge the Committee to examine the facts in this case, and conclude that H.R. 3130 should not be reported to the full Committee.

Sincerely yours,

Thomas M. Landin

Thomas M. Landin
Vice President
Government Relations

8187j

H.R. 3197

To suspend temporarily the duty on certain frozen vegetables.

No statements received.

H.R. 3231

To provide for the temporary suspension of duty on certain types of veneer.

BROOKSIDE
VENEERS·LTD

STATEMENT OF BROOKSIDE VENEERS
ON H.R. 3231
TO PROVIDE FOR THE TEMPORARY SUSPENSION OF DUTIES
ON CERTAIN TYPES OF VENEER

Submitted to the Trade Subcommittee
Committee on Ways and Means
U.S. House of Representatives

October 23, 1989

We wish to thank the Subcommittee for the opportunity to submit a statement in support of passage of H.R. 3231, introduced by Congressman Bernard Dwyer, which would provide for a suspension of duties on certain types of veneer. The bill would provide tariff relief for hardwood veneer imported by Brookside Veneers Ltd. of Metuchen, New Jersey. Congressman Dwyer's bill would correct a mistaken technical distinction in the tariff treatment of hardwood veneer made by different production methods, which has resulted in an unfair duty differential. Brookside Veneers pays a duty of 5.1 percent for hardwood veneer whereas other veneer used for the same purposes enters the U.S. market duty-free.

In 1981, Congress enacted a tariff bill suspending duties on wood veneer imports. We believe that it was the Congressional intent to confer duty free treatment on all wood veneer imports regardless of how produced, as the bill was enacted to enhance the competitiveness of the American plywood industry. However, the bill was subsequently implemented as providing duty-free treatment only for veneer produced directly from logs and flitches. Those who drafted the bill were not aware that veneer is also produced from blocks of wood veneer sheets which are made from logs and flitches. This veneer is known commercially as reconstructed or manmade veneer.

U.S. Customs determined that veneer produced indirectly from logs and flitches was not within the scope of the duty suspension bill. Thus the veneer that Brookside imports, although practically identical in appearance and completely identical in use to other veneers is excluded from duty-free entry, although it contributes equally to the competitiveness of U.S. industry.

Home Office
215 Forrest Street, Post Office Box 4348, Metuchen, New Jersey 08840-4348
NJ 201-494-3730 Telex: 844-375

The changes proposed in Congressman Dwyer's bill would correct the inequity caused by the restrictive definition of wood veneer developed by the United States Tariff Commission, now the United States International Trade Commission. Because wood veneer was narrowly defined in the TSUS to include only sliced veneer produced directly from logs and flitches, importers of reconstructed, recomposed or manmade veneer were required to pay duty under TSUS items 207.00 and 207.09, and were prevented from importing such veneer under the specific provisions for wood veneer, TSUS 204.00 through 204.06, at lesser rates or free of duty.

Although the duty on wood veneer was eliminated in 1980 as a result of passage of duty suspension bill H.R. 5047 and its incorporation into Public Law 96-609, duties continue to be imposed on manmade veneer under the Harmonized Tariff System, through its classification in the miscellaneous wood product in category HTS 4421.90.90.

The report accompanying H.R. 5047 clearly indicated that Congress wished to eliminate the duty on all wood veneer regardless of whether the veneer is produced from natural or manmade materials. The report accompanying the bill states that:

> "This provision would enable U.S. manufacturers of plywood, who rely on imported logs and veneers for the manufacture of their product, to obtain veneers at a lower cost and thus compete more effectively with imported plywood."

No distinction is made in the report language between veneer produced from natural or manmade materials, and indeed both types are used by domestic manufacturers of plywood in competition with imported plywood. Manmade veneer is not produced in the United States and duty-free entry would not harm any U.S. producer of a like or a similar product.

The problem was caused by a lack of awareness on the part of the Tariff Commission and the Congress that manufacturing developments would allow veneer to be produced from wood products other than natural logs or flitches. When the major American importer of manmade veneer became familiar with this problem, the importer requested classification under TSUS item 240.03. Customs ruled that the only sliced wood veneer covered by item 240.03 was that produced from natural logs and flitches, and directed classification of manmade veneer to be made under TSUS item 207.00 (later changed to 207.09) which carried a duty rate exceeding that for item 240.03. The U.S. Court of International Trade overruled the Customs Service and reclassified manmade veneer under TSUS item 240.03. The Court of Appeals for the Federal Circuit then overruled the Court of International Trade, restoring the original Customs classification. However, the Court of Appeals did not address Congress' intent to allow duty-free entry of veneer in order to improve the competitive position of U.S. plywood producers.

By passing Congressman Dwyer's bill, Congress can accomplish this objective and allow the major American importer of manmade veneer to recover duties imposed in contravention of Congressional intent, as expressed in H.R. 5047 and enacted into law.

hpma HARDWOOD PLYWOOD MANUFACTURERS ASSOCIATION

October 26, 1989

Mr. Robert J. Leonard
Chief Counsel, Committee on Way and Means
U.S. House of Representatives
Longworth House Office Building
Room 1102
Washington, D.C. 20515

Dear Mr. Leonard:

The Hardwood Plywood Manufacturers Association supports the passage of H.R. 3231 and the reclassification of man-made veneers to be in accordance with all other veneers. The legislation was introduced by Congressman Dwyer of New Jersey on September 7, 1989.

In 1980, Congress passed H.R. 6975 which provided for the duty-free importation of wood veneers. The justification was to allow domestic plywood producers, and their customers, to remain competitive with imported plywood by allowing them to obtain veneers at a lower cost.

Man-made, or recomposed, veneers was a new technology in the United States in 1980 and consequently Congress did not consider it at the time of H.R. 6975 passage. Through an interpretation of the TSUS, and now the HTSUS by the customs service, man-made veneers are presently assessed a 5.1% duty while other veneers enter the country duty free.

As man-made veneers are practically identical in appearance to other veneers; completely identical in use, and contribute equally to the competitiveness of U.S. industry, the difference in tariff treatment is not justified.

The Hardwood Plywood Manufacturers Association represents 138 North American manufacturers of hardwood plywood and veneer accounting for more than 75% of U.S. production. Our members firmly believe that had Congress considered man-made veneers in 1980 it would have classified them with all other veneers and changed the tariff schedule accordingly.

We, therefore, support the passage of H.R. 3231 and the reclassification of man-made veneers in accordance with all other veneers.

Sincerely,

H. Clay Howell, III

H. Clay Howell, III
Chairman of the Board

1825 Michael Faraday Drive, P.O. Box 2789, Reston, VA 22090
Phone: 703/435-2900 FAX: 703/435-2537

INTERNATIONAL HARDWOOD PRODUCTS ASSOCIATION P.O. BOX 1306 ALEXANDRIA, VIRGINIA 22313 (703) 836-6696
TWX: 710-832-0288 IMPORHARD UD FAX: (703) 836-6370

COMMENTS OF

WENDY H. BAER
EXECUTIVE VICE PRESIDENT
INTERNATIONAL HARDWOOD PRODUCTS ASSOCIATION

SUBMITTED TO:
COMMITTEE ON WAYS AND MEANS
U.S. HOUSE OF REPRESENTATIVES
ON H.R. 3231

The following comments are submitted by the International Hardwood Products Association (IHPA) in favor of H.R. 3231, a bill to provide for the temporary suspension of duty on certain types of veneer.

The International Hardwoo Products Association (IHPA) is the sole organized group in the United States which, as a trade association, represents importers of tropical wood products, as well as manufacturing customers of the importers, and many overseas producers of tropical wood products. I serve as Executive Vice President of the International Hardwood Products Association.

IHPA was very active in support of passage in 1980 of an omnibus trade bill (H.R. 5047) which contained several trade measures including H.R. 6975, a bill to remove all duty on imported veneers. H.R. 6975 was originally introduced at the request of this organization, which was at the time also known as the Imported Hardwood Products Association. At that time, consideration was given to whether elimination of duties on imported veneers would displace any jobs in the United States or present unfair competition to U.S. manufacturers. The importing industry represented by this Association felt that passage of 6975 would have a minimal effect on U.S. hardwood veneer producers and could benefit a very wide sector of plywood producers.

H.R. 3231 has been introduced to allow for suspension of duty on veneer which is made from a block composed essentially of wood

veneer sheets produced from logs and flitches commercially known as "man made" veneer. To our knowledge this "man made" veneer is used in the same manner as veneer produced from natural materials (logs and flitches). Through an unfortunate circumstance of misunderstanding in tariff classification, this "man made" veneer was not allowed the opportunity to enjoy suspension of duty realized by veneer made from natural materials in 1980. "Man made" veneer is not produced in the United States at the present, and its suspension of duty, as opposed to being competitive with products now manufactured in the U.S., would probably add to the commerce of our domestic manufacturers as one of the applications is to manufacture the veneer into plywood domestically.

We encourage approval of H.R. 3231 allowing for the temporary suspension of duty on "man made" veneers by inserting in subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States the new classification number 9902.44.21 as described in Mr. Dwyer's bill.

Thank you for accepting comments from the International Hardwood Products Association.

Wendy H. Baer
Executive Vice President
International Hardwood Products Association
October 23, 1989

Manchester Trade
International Business Advisors
1155 FIFTEENTH ST., N.W.
SUITE 314
WASHINGTON, D.C. 20005

STEPHEN LANDE, President
NELLIS CROCKER, Vice President
WILLIAM D. EWERT, Advisor

Telephone: 202-331-9494
Facsimile: 202-785-4374

October 17, 1989

The Honorable Sam Gibbons
U.S. House of Representatives
Washington, D.C. 20510-3001

Dear Congressman Gibbons,

I would appreciate your assistance to resolve a problem over the classification of veneer imported by Brookside Veneers, located in Metuchen, New Jersey. I would specifically request that you support a bill introduced by Congressman Bernard Dwyer (HR 3231) which would provide tariff relief for hardwood veneer imported by my company. A technical distinction between the production methods utilized for the hardwood veneer which Brookside's import and for most other veneers has resulted in a unfair duty differential. Brookside pays a duty of 5.1 percent whereas the other veneer enters duty-free.

In 1981, Congress enacted a tariff bill which included provisions suspending the duty on wood veneer imports. We are convinced that it was the Congressional intent to allow duty-free imports of all wood veneer regardless of how produced. The duty-free treatment was enacted to assist the competitiveness of the American plywood industry. Unfortunately, the bill only provided duty-free treatment for veneer produced directly from logs and flitches. The drafters were not aware of the fact that veneer could also be made from a block composed essentially of wood veneer sheets produced from logs and flitches. This veneer is known commercially as reconstructed or manmade veneer.

Customs determined that such veneer produced indirectly from logs and flitches was not within the scope of the duty suspension bill. Thus the veneer being imported by Brookside, although practically identical in appearance and completely identical in use to other veneers and equally contributing to the competitiveness of U.S. industry is excluded from duty free entry. The proposed bill would correct this error.

Thank you for your consideration.

Sincerely yours,

Stephen Lande

Stephen Lande

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EXPLANATION OF BILL

The changes in the bill introduced by Congressman Dwyer (as yet unnumbered) are designed to correct the inequity caused by the restrictive definition of wood veneer developed by the United States Tariff Commission, now the United States International Trade Commission. Because wood veneer was narrowly defined in the TSUS to include only sliced veneer produced directly from logs and flitches, importers of wood veneer sliced from a block composed essentially of wood veneer sheets produced from logs and flitches, (known commercially as reconstructed, recomposed or manmade veneer) were required to pay duty under TSUS items 207.00 and 207.09, and were prevented from importing such veneer under the specific provisions for wood veneer, TSUS 204.00 through 204.06, at lesser rates or free of duty.

The duty on wood veneer was eliminated in 1980 as a result of passage of duty suspension bill H.R. 5047 and its incorporation into Public Law 96-609. The practice of dutiable entry of manmade veneer was continued under the HTS by its classification in the miscellaneous wood product category under HTS 4421.90.90.

The report accompanying H.R. 5047, the bill which suspended the duty on wood veneer, clearly indicated that Congress wished to eliminate the duty on all wood veneer without regard to whether the veneer is produced from natural materials or manmade materials. The report states that the provision would enable U.S. manufacturers of plywood, who rely on imported logs and veneers for the manufacture of their product, to obtain these at lower cost and thus compete more effectively with imported plywood. There is no distinction in use between veneer produced from natural or manmade materials and both types are used by domestic manufacturers of plywood in competition with imported plywood. Manmade veneer is not produced in the United States and duty-free entry would not harm any U.S. producer of a like or a similar product.

The problem was caused by the lack of knowledge on the part of the Tariff Commission and the Congress that subsequent development of veneer manufacturing would allow veneer to be produced from wood products other than natural logs or flitches. When the major American importer of manmade veneer became familiar with this problem, the importer requested classification under TSUS item 240.03. Customs ruled that the only sliced wood veneer covered by the item 240.03 provision for veneer was that which was produced from natural logs and flitches, and directed classification to be made under TSUS item 207.00 (later changed to 207.09) which carried a duty rate exceeding that for item 240.03 for wood veneer. The U.S. Court International Trade overruled the Customs Service and reclassified manmade veneer under TSUS item 240.03. The Court of Appeals for the Federal Circuit then overruled the Court of International Trade, restoring the original Customs classification. However, the Court of Appeals did not address the intent of Congress to allow duty-free entry of veneer so as to improve the competitive position of U.S. plywood producers.

H.R. 3232

To suspend temporarily the duty on p-Hydroxybenzaldehyde.

KOCH INDUSTRIES INC

LEANNE J. ADONIZIO
DIRECTOR OF FEDERAL GOVERNMENT AFFAIRS

October 19, 1989

TO: The Honorable Sam Gibbons
Chairman of the Subcommittee on Trade
Ways and Means Committee
U. S. House of Representatives

RE: COMMENTS ON HR.3232, A PROPOSAL TO TEMPORARILY SUSPEND THE DUTY ON P-HYDROXYBENZALDEHYDE

On behalf of my company, Koch Chemical Company, I am taking this opportunity to comment on the temporary duty suspension proposal for p-hydroxybenzaldehyde, H.R. 3232.

P-hydroxybenzaldehyde is classified in HTS class 2912-49-2000, which carries a duty of 11.9%.

There are currently no domestic producers of this chemical. In the past, it was produced by Dow Chemical until 1980. More recently, Wesley Industries of Montrose, Alabama produced the product, but they suspended operations early this year.

There are currently no importers of this product. Thus, a suspension of the duty would not reduce revenues to the government.

Koch would like to import this product from the Pacific rim. Koch would then use it to produce p-hydroxyphenylbut-2-one for its use in agriculture feeds.

If the duty is not suspended on p-hydroxybenzaldehyde, our costs would be about $1.00 per pound higher than any non-American competition.

We respectfully urge that you suspend the duty on this product so that we are not put at a severe competitive disadvantage.

If you have any questions, please call me at 202-466-2789 or call Mr. Jerry King at 316-832-7448.

2000 Pennsylvania Avenue, Northwest • Suite 3580 • Washington, D.C. 20006 • 202/466-6112